IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 121/2005

Mrs. Sandra D'Silva, resident of
Durgawadi, Taleigao, Goa. ..... Petitioner.

V/s.

1. The Commissioner, City
of Panaji Corporation,
Municipal Building, Panaji, Goa.

2. Shri Sandeep Veluskar,
Kiosk near St. Inez Cemetary,
opposite Models Residency,
Panaji, Goa. ..... Respondents.

Mr. D. Pangam, Advocate for the petitioner.

Mr. S. S. Kantak, Advocate General for the respondent No.1.

CORAM : R.M. LODHA &
N.A. BRITTO, JJ.

DATE : 29TH AUGUST, 2005

P.C.

At the outset, Mr. S.S. Kantak, the learned Advocate General drew our attention to Section 269 of the City of Panaji Corporation Act, 2002 and submitted that the petitioner has alternative remedy of approaching the Commissioner for removal of the offending structure.

2. Having seen the writ petition and the documents annexed thereto, we find that on 24.11.2004 the petitioner wrote to the Commissioner for removal of subject-unauthorised structure. It appears that no action was taken by the Commissioner and that necessitated the petitioner to approach this Court in ex-ordinary jurisdiction.

3. We are unable to appreciate the stance of the respondent no.1 in raising the objection of alternative remedy when the petitioner had already made the complaint to the respondent no.1. As a matter of fact, it is the inaction and laxity on the part of the Commissioner in not acting on the complaint of the petitioner that the petitioner had to approach this Court.

4. Since now it is the objection of the Commissioner of the City of Panaji Corporation that the petitioner has alternative remedy under Section 269 and we find that the complaint has already been made by the petitioner to the Commissioner way back on 24.11.2004, in our considered view, the interest of justice would be subserved by the following Order :

The Commissioner of the City of Panaji Corporation (respondent no.1) is directed to act on the complaint dated 24.11.2004 without any further delay and after hearing the respondent No.2 pass an appropriate order under Section 269 of the City of Panaji Corporation Act, 2002 as early as possible and in no case later than four months from the date of receipt of this order.

The writ petition is disposed of accordingly.

R.M. LODHA, J.

N.A. BRITTO, J.

ssm.